

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

IN RE:	)	
	)	CASE NO: 21-50844-pmb
SYLVESTER JAMAIL LARKINS	)	
	)	CHAPTER 13
DEBTOR.	)	

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**OBJECTION TO PLAN CONFIRMATION**

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COMES NOW, BPAJRNEA Aviation, LLC (“Creditor”), a secured judgment lien creditor and party in interest in the above-styled case and files this, its Objection to Plan Confirmation pursuant to 11 U.S.C. §§ 1307 and 1325, respectfully showing as follows:

1.

Creditor obtained a judgment against Debtor on October 9, 2019 in the amount of \$707,104.20 and a Writ of Fieri Facias was filed and recorded in the Lien Records for the Superior Court of DeKalb County, Georgia on August 28, 2020 at Lien Book 2329, Page 170, and as amended on September 16, 2020 at Lien Book 2333, Page 373. True and correct copies of the Judgment and Writ of Fieri Facias are attached hereto as Exhibit “1.”

2.

Despite Creditor's publicly recorded Judgment Lien, Creditor was not named in Debtor's Petition and was not notified of the filing of this Bankruptcy Case. Similarly, Debtor's Plan does not propose to pay any amounts to Creditor.

3.

Creditor adopts the objections of the United States Trustee and those of Creditors Air Columbia, LLC and Air JP, LLC and incorporates the same herein as if fully set forth herein [Docs 16, 18].

4.

Also, Debtor's Plan as proposed should be denied for the reasons set forth herein.

5.

At all times relevant hereto, Debtor was the owner and CEO of Ascension Air Management, Inc. ("AAMI") and its predecessor, Ascension Aircraft, Inc. ("AAI").

6.

In 2013, Debtor, through fraud and misrepresentations, induced Creditor into purchasing a fractional ownership interest in a 2013 Cirrus Turbocharged SR22T GTS airplane bearing serial number 636 and tail number N928CS (the "Airplane")

under a fractional share agreement. Creditor paid \$502,875.00 to purchase 5/8<sup>th</sup> shares (or 400 annual allocated flight hours) in the Airplane. Creditor also agreed to sublease four (4) shares back to Debtor at the rate of \$1,224.00 per month, per share, or \$4,896.00 per month.

7.

Debtor intentionally and willfully misrepresented that Ascension was the sole and absolute legal and beneficial owner of the Airplane to induce Creditor to enter into the Agreement and falsely claimed that Ascension had not sold or leased any part of the Airplane to the lenders to get the loans.

8.

Debtor intentionally failed to register Creditor's interest in the Airplane with the FAA so that Debtor could fraudulently pledge the Airplane as collateral for other loans.

9.

Debtor fraudulently and in violation of his fiduciary duties pledged the Airplane as security for a loan in the amount of \$520,000 in favor of WS Funding, LLC in May of 2015 and pledging the Airplane as collateral for a subsequent loan with Aero Specialty Finance LLC in 2018.

10.

Debtor also stopped making sublease payments to Creditor but continued to sub-sublease Creditor's flight hours to third-parties.

11.

Creditor filed its first lawsuit against Debtor and Ascension in the Superior Court of DeKalb County, Georgia on July 30, 2018, Civil Action No. 18CV7701 (the "First Lawsuit").

12.

On August 17, 2018, Debtor fraudulently induced Creditor to enter into an Airplane Purchase Agreement (the "Purchase Agreement") which Debtor never intended to perform, a true and correct copy of which is attached hereto as Exhibit "2" under which Ascension and Debtor promised to sell the remaining 3 shares in the Airplane to Creditor for \$140,000, less any past-due sublease payments owed to Creditor on the date of the closing. Debtor promised to deliver the Airplane in "airworthy condition" as defined therein and "free and clear of all liens, mortgages, security interests or other charges, encumbrances or claims or rights of others."

13.

In reliance on the fraudulent representations, Creditor dismissed the First Lawsuit, without prejudice, and borrowed \$233,517.00 under a promissory note in favor of AFC Financial Services, LLC to finance the purchase of the Airplane and cover the costs necessary to purchase a new engine for the Airplane. Additionally, Creditor began paying \$575.00 per month to in rent to have the Airplane hangered at the maintenance shop.

14.

Debtor never intended to comply with the Purchase Agreement. Among other reasons, Debtor knew he was not even capable of performing under the Purchase Agreement at the time of the Agreement but failed to disclose this fact to Creditor.

15.

Creditor filed a second lawsuit against Ascension and Debtor on January 29, 2019 in Superior Court of DeKalb County, Civil Action No. 19CV1887.

16.

Creditor obtained a judgment against Debtor on October 9, 2019 in the amount of \$707,104.20 and a Writ of Fieri Facias was filed and recorded in the Lien Records for the Superior Court of DeKalb County, Georgia on August 28, 2020 at

Lien Book 2329, Page 170, and as amended on September 16, 2020 at Lien Book 2333, Page 373. *See* Exhibit “1.”

17.

Debtor caused Ascension to file a petition for relief under Chapter 7 of the Bankruptcy Code, initiating Case No. 20-62473. Creditor was not named as a Creditor in Ascension’s Bankruptcy Action, but Creditor filed a proof of claim in that action upon learning of its filing. Still, Creditor will not receive any proceeds from the sale of the Airplane, because Debtor intentionally failed to record Creditor’s interest in the Airplane and Aero Specialty’s recorded interest from the loan obtained through fraud has priority.<sup>1</sup>

18.

Debtor’s Plan was not filed in good faith, as shown by Debtor’s repeated failure to disclose Creditor’s Judgment and Judgment Lien in any of his Bankruptcy Actions.

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<sup>1</sup> Creditor’s Judgment Lien was not recorded until after the filing of Ascension’s Bankruptcy Action and was recorded only as to Debtor after Debtor’s First Bankruptcy Case was dismissed.

19.

Upon information and belief, Debtor has failed to disclose all his assets, business interests, and other pending lawsuits against him. According to the Secretary of State, Debtor filed an Application for Reinstatement for PDK, LLC on May 11, 2020. *See* Exhibit “3”. According to DeKalb County Property Records, PDK, LLC owns real property with an assessed value of \$1,130,600.00 located at 2007 Flightway Drive, Atlanta, GA 30341. *See* Exhibit “4.” Additional entities of interest for which further inquiry is necessary include 2007 Flightway Drive, LLC which listed Jamail Larkins as a member in January of 2016, Pilots Country Club, LLC and Cogency Global, Inc.

20.

Debtor’s proposed plan is not feasible, as Debtor reports he has no income, Debtor is unemployed, and Debtor has many undisclosed, unscheduled creditors.

21.

Creditor was not notified of this Action and was not afforded the opportunity to attend the Meeting of the Creditors to ascertain if additional grounds exist for objection and, as such, Creditor adopts the objections of the United States Trustee and those of Creditors Air Columbia, LLC and Air JP, LLC and incorporates the same herein as if fully set forth herein.

This 1st day of April, 2021.

Respectfully submitted,

ANDERSEN, TATE & CARR, P.C.

/s/Graham K. Brantley

James C. Joedecke, Jr.

State Bar No. 391885

Graham K. Brantley

State Bar No. 942600

One Sugarloaf Centre

1960 Satellite Blvd., Suite 4000

Duluth, Georgia 30097

(770) 822-0900

[jjoedecke@atclawfirm.com](mailto:jjoedecke@atclawfirm.com)

[gbrantley@atclawfirm.com](mailto:gbrantley@atclawfirm.com)

Attorneys for BPAJRNEA Aviation, LLC



**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the within and foregoing OBJECTION TO PLAN CONFIRMATION was served on all registered filers who have entered an appearance in this case through the Court's electronic case filing system (ECF).

This 1st day of April, 2021.

Respectfully submitted,

ANDERSEN, TATE & CARR, P.C.

/s/Graham K. Brantley

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1960 Satellite Blvd., Suite 4000

Duluth, Georgia 30097

(770) 822-0900

jjoecke@atclawfirm.com

gbrantley@atclawfirm.com

Attorneys for

BPAJRNEA Aviation, LLC